

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

SHENEA JAMES as administrator of the estate of DEDRICK JAMES, deceased, and SHENEA JAMES, individually,

Plaintiff,

-against-

THE UNITED STATES OF AMERICA, DEPUTY UNITED STATES MARSHAL CARLTON SMITH, CITY OF ROCHESTER, RPD OFFICER WILLIAM BAKER, RPD INVESTIGATOR RICHARD ARROWOOD, “JOHN DOE RPD OFFICERS 1-10” (names and number of whom are unknown at present), MONROE COUNTY SHERIFF TODD BAXTER, MSCO SERGEANT CHRISTIAN DEVINNEY, “RICHARD ROE SHERIFF’S DEPUTIES 1-10” (names and number of whom are unknown at present), NYSP INVESTIGATOR JEFFREY ULATOWSKI, and other unidentified members of the Rochester Police Department, Monroe County Sheriff’s Office, and New York State Police,

Defendants.

**DECLARATION OF  
ELLIOT D. SHIELDS**

**23-cv-6057 (DLG)**

ELLIOT D. SHIELDS, hereby declares under penalty of perjury and pursuant to 28 U.S.C. § 1746 that the following is true and correct:

1. I am associated with Roth & Roth, LLP, where I represent plaintiffs in personal injury and civil rights lawsuits.
2. We are counsel for the Plaintiff and as such I am fully familiar with the facts and circumstances of this action.
3. I give this declaration in opposition to the partial motion to dismiss and substitute, ECF 7, filed by Defendants United States of America (the “USA”), Deputy U.S. Marshal Carlton Smith (“Smith”), RPD Officer William Baker (“Baker”), Monroe County Sheriff’s Deputy Christian Devinney (“Devinney”), and NYSP Investigator Jeffrey Ulatowski (“Ulatowski”).

4. Attached hereto as Exhibit "A" is a true and correct copy of the Supporting Deposition dated September 22, 2021, signed by defendant Monroe County Sheriff's Deputy Christian DeVinney, in which he stated that "on 9/15/21, I was acting in my official capacity as a Deputy Sheriff ... when I was notified that our warrant unit was going to make an attempt to locate and arrest Dedrick James at 6 Vinewood Place in the City of Rochester." This deposition was also filed by the County with their motion that as filed in state court. See ECF 1-2.

### **CONCLUSION**

5. For all of the reasons in the memorandum of law, plaintiff respectfully submits that defendants' motion must be denied in its entirety, other than the dismissal of the *Bivens* claims (the First and Second Claims for Relief) and the request to substitute the U.S.A. as defendant in place of Deputy U.S. Marshall Smith.

Dated: New York, New York  
March 10, 2023

Respectfully Submitted,  
ROTH & ROTH LLP

By: ~/s/~/  
Elliot Dolby Shields, Esq.  
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To: All parties (via ECF)